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# Sewer Systems Organization and Financing

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Environmental Assistance Office fact sheet

8/2002

**You need a central sewer system**, but how should you organize to build, finance and operate it? Fortunately, you probably have several options. They are introduced in "You Need Sewers In Your Community," a companion to this guide.

Now you are ready to consider your organization and financing options more closely. This guide discusses the major organizational structures that you can use to finance construction and manage the sewer system. The guide does not discuss formation and financing of private or not-for-profit entities.

**Sewer and other public service districts** have latitude in how they provide sewer services. Districts may contract with a city, rural electric cooperative or a sewer service company for operation of their facilities. Likewise, districts may contract to manage the facilities of other entities; public or private, from large community collection and treatment systems to small on-site treatment systems. How you organize to build, finance and manage sewer services depends on your community's situation, the capabilities of your community, and the capabilities and willingness of other entities in your area to cooperate with your community. You should discuss doing a cooperative venture with other entities in your area before you proceed to form any particular district or structure. As a general rule, if your community can pay a reasonable fee to receive sewer services from some other entity, and avoid providing the service itself, that is the best strategy. This strategy becomes more attractive the smaller your community is.

Sewer services need not be provided to an entire community using a "one size fits all" technology. In some situations overall sewer services may be most economical when there is a blend of community-based collection and treatment where necessary, and on-site treatment like septic tanks and drainfields where that technology is suitable. If you do allow on-site systems within your service area, strongly consider requiring or even providing professional management of the on-site systems. District provision of this service can be the most economical and effective way to manage and maintain these systems properly. Under private control, such systems frequently get little or no maintenance at all by individual property owners, leading to their failure. Sewer service districts can be authorized to provide drinking water services, and the reverse is also true. Combining both services can further improve services and reduce costs due to efficiencies of scale.

There are many possibilities available to your area if you will contact the county commission, nearby cities, towns, villages, rural electric cooperatives and others before you form a district.

**District formation requires public support.** That seems obvious, but many sorely needed districts never get formed because those leading the formation effort fail to completely inform the property owners and future system users in the proposed district about why they need it,

what it will do for them, and what it will cost them. Without good information, the property owners will not be motivated to support the district formation at the public hearing and the ballot box.

The statutes require public participation in district formation through petitions, hearings and elections, and they require public notices of these activities. As leaders of the formation effort, do not be satisfied with fulfilling the statutory requirements. Actively seek out opportunities to discuss the benefits and costs of the proposed district through informational newspaper articles, radio interviews, word of mouth and any other means available to you. You must inform people. You must motivate them to stop doing what is familiar and try something that is new. That is the hardest part of forming a district, the rest is just mechanics.

**Three major grant and loan programs** are available to fund sewer district construction projects: Missouri Department of Natural Resources grants and loans; USDA Rural Development grants, loans and loan guarantees; and Community Development Block Grant (CDBG) grants, loans and loan guarantees. Each of these programs is introduced in the companion guide "You Need Sewers in Your Community." Call the Environmental Assistance Office at (573) 526-6627 or 1-800-361-4827 for a copy.

If you use state or federal money, which you probably will, everyone within a specified distance of a collection line must hook up. Sewer districts are considered municipalities just like cities and counties, so state wage rates must be used. For selected municipalities and for all CDBG grant recipients, federal wage rates must also be used. Each funding agency can inform you of its wage rate requirements and other aspects of its programs.

**There are four major structures** available to organize and finance most sewer projects outside the limits of incorporated cities, towns and villages: common sewer districts with subdistricts, simple sewer districts, water districts authorized to provide sewer services, and neighborhood improvement districts. Neighborhood improvement districts may be used alone or in combination with the other structures to facilitate financing in certain situations.

The Missouri Constitution authorizes general obligation bonds to be used to finance any of these organizational structures except unincorporated subdistricts of common sewer districts. General obligation bonds must be authorized by four-sevenths of the voters in a municipal general election, a state primary election or a state general election. At all other elections a two-thirds majority is required.

The discussions of organizational structures that follow are simplified and present only the major concepts for the formation and financing of various kinds of districts used for sewer projects. These discussions also do not take into account the effects of the Missouri Constitution, state statutes, or regulations unless specifically noted. In the guide, when a narrative is followed by numbers in parentheses ( ), the numbers cite the pertinent state statute.

For your convenience, renditions of actual formation documents from existing districts have been cited in the guide and compiled in a separate appendix. The guide and the appendix documents are available in print or on disk to make it easier for you and your attorney to use. To obtain a copy of this guide on disk, just call the departments Local Government Assistance Unit at (573) 526-6627 or 1-800-361-4827, or access our homepage listed above.

Some documents in the appendix contain the names and contact information of the attorneys who produced them. In publishing these documents, the department does not endorse any individuals or firms named in the documents. However, county commissioners and clerks, district board members, attorneys and others involved in formation and management of districts can serve as good references for more specific information. Please be aware, although the documents cited have already been successfully used, Missouri Department of Natural Resources offers no assurance that they would be accepted in your county or circuit court jurisdictions. Also, this is not an all-inclusive collection of documents necessary for the formation of the various districts. Documents for the formation of common sewer district subdistricts, and documents for formation of neighborhood improvement districts by the election alternative were not available for inclusion in the appendix.

This document is intended to provide only general guidance based upon state statutes. For help in forming a district, contact the Local Government Assistance Unit, another community that has already established the structure you are interested in, a municipal planning consultant or an attorney who specializes in municipal law.

## **Common Sewer Districts and Subdistricts (204, RSMo)**

The purpose of a common sewer district is to enable property owners within its boundary to acquire sewage collection and treatment services. The organizational structure described here is one that establishes a municipal entity to build sewer systems. A common sewer district can deal with the tasks of running multiple sewer systems, or subdistricts, with no involvement of other municipalities. Within the common sewer district, one or more subdistricts may be formed to authorize the common sewer district to incur general obligation bond debt to finance construction of the project for each subdistrict. When general obligation bond debt is authorized by formation of a subdistrict, taxes to retire those bonds may only be assessed to properties within that subdistrict. User charges to pay for operation, maintenance and replacement of a subdistricts system, and to retire revenue bond debt, are assessed to the users of the sewer system or the properties served by the system within the subdistrict.

To obtain the cheapest possible bond financing, it may also be necessary to form a neighborhood improvement district for the same area as the subdistrict. If that is the case, both districts can be formed simultaneously. Neighborhood improvement districts are discussed at the end of this guide.

A common sewer district is essentially an area of land enclosed by a specified boundary. It can be multiple counties, an entire single county, or just a part of one or more counties. The boundaries of a common sewer district can even be the same as the boundaries for a single subdistrict that it contains. We generally recommend county-wide common sewer districts. However, if the county voters will not support a county-wide district, a smaller district can be formed. If property owners of adjacent areas become interested later on, the district can be enlarged. The board of trustees of the common sewer district is the decision making body of the district. The board may handle administrative duties, or hire an administrator to handle day-to-day operations of the district. All counties and most smaller areas can qualify to form a common sewer district because they could have qualified for federal assistance through the now discontinued construction grants program (Title 33, Section 1151 et seq., U.S. Code), or they can now qualify for its successor, the State Revolving Fund loan program (204.250.1).

## Considerations

- A. The common sewer district approach requires broad support for the common sewer district plus local community support for individual subdistrict projects. When the common district is in place, subdistricts can be added as needs are recognized and support is gathered. Likewise, the districts can be authorized to provide public drinking water. In practice, support usually starts in a local community that is having serious sewage problems. Later, support broadens to include a wider area for the common sewer district.
- B. The ideal situation is to build sewers and other infrastructure **before** homes and businesses are built. Common sewer districts facilitate such a development strategy. This strategy enables you to avoid all the logistical and financial problems of building sewers as an afterthought. Furthermore, building sewers beforehand fosters orderly development. Usually fewer landowners are involved, so it is easier to organize each new area into a subdistrict. In reality, developments are usually in place before the common sewer district is formed. Hopefully, each common sewer district will strive to catch up with existing developments and begin forming subdistricts for undeveloped areas as well.
- C. The common sewer district should endeavor to operate on a wide area or regional basis, rather than on a small area basis. It should cooperate with cities, towns and villages for services within or near the district. If such cities already have capacity to treat a district's sewage, both may want the city to treat the district's sewage on a contractual basis. Alternatively, if such cities do not have a treatment system, and they want to stay out of the treatment business, or if their system will require substantial upgrading that could more economically be handled by the district, the district should handle treatment for the city. Cities may even become subdistricts to the common sewer district. This eases their management and finance burden and makes the district more manageable and economical. The choice depends on local circumstances, and good choices can only be made if the districts and cities communicate and cooperate well. Having a common sewer district in a county or region creates many opportunities to optimize sewer services and minimize costs to the users.
- D. Projects for each subdistrict might be paid for by grants and loans. Loans would be supported by bonds and retired by special assessments and user charges placed only on the property owners of the subdistrict doing the project.
- E. Project planning and financing, as well as all future operations of the system, are handled by the board of trustees of the common sewer district.
- F. The addition of a central sewer system where there currently is none, managed by a common sewer district that has the expertise to provide good service, will probably increase your property values more than the cost of construction and debt service for the project. Your area's current viability and development potential will be enhanced, development will be more orderly, and your sewage problems will be solved.
- G. Adoption of a common sewer district does not authorize the district to incur debt, issue bonds or place assessments on the property owners of the district. If the property owners want to authorize the common sewer district to incur debt, they must approve that issue by the appropriate four-sevenths or two-thirds on a separate ballot issue.

## **Formation of Common Sewer Districts (204.250 to 204.300, RSMo)**

### **Steps**

1. Usually, property owners in an area having sewage problems collectively ask the county commission for help in solving their sewage problems.
2. The county commission or the county executive with the concurrence of the county legislature, as appropriate, petitions the circuit court to have a question placed on a forthcoming election to determine if the voters desire the formation of a common sewer district. The petition must state the name, purpose and a sufficiently detailed description of the boundaries of the proposed common sewer district (204.250.1 and 2). A sample petition is included in the appendix as Appendix A - 1.
3. Within 30 days of receiving the county commission's petition, the court appoints three common sewer district commissioners. At least one of the commissioners must be a licensed civil engineer or surveyor (204.260.1). One of the commissioners is designated as the presiding commissioner (204.260.4). This is a temporary commission with the purpose of defining the boundaries of the common sewer district, using those proposed by the county commission or revising them as appropriate (204.260.2). These commissioners may be compensated as set by the circuit court (204.260.5). A sample court order to appoint the commissioners is included in the appendix as Appendix A - 2.
4. The common sewer district commissioners take an oath to faithfully fulfill their duties (204.260.3). A sample oath is included in the appendix as Appendix A - 3. This commission may employ a clerk, with compensation set by the circuit court (204.260.5).
5. The common sewer district commission holds a hearing to allow any person owning property within the boundaries of the proposed common sewer district to comment on the proposed boundaries. This hearing must be held in the courthouse of the county involved. The district commission must advertise this hearing at least five times in at least one general circulation newspaper in the area of the proposed district. The last advertisement must be published at least 20 days before the hearing (204.260.3).
6. After the hearing, the district commission submits a report and boundary map to the circuit court proposing boundaries of the common sewer district. A portion of a sample report is included in the appendix as Appendix A - 4. A sample map is included in the appendix as Appendix A - 5. The court then discharges the district commission. A sample of this order is included in the appendix as Appendix A - 6. If the court approves the map and report, these documents are then filed with the recorder of deeds and the county commission (204.270).
7. The circuit court orders the county commissions of all counties partially within the proposed common sewer district to place a question to form the district on a forthcoming election to be voted on by all voters encompassed by the proposed common sewer district (204.280.1).
8. The voters of each county, or of the county containing a major portion of the district, approve the common sewer district by at least a simple majority. If a majority of the voters favors the district in a county containing the major portion of the district, but not in any other county, the court must change the boundaries of the district to include only the area in the county favoring the district (204.280.3).

9. The county clerk certifies to the circuit court the results of the election (204.280.2).
10. The circuit court finds that the voters have approved the formation of a common sewer district, and the court issues a decree incorporating the area as a common sewer district (204.280.3). A sample decree of incorporation is included in the appendix as Appendix A - 7.
11. The county commission (except in St. Louis County) organizes the common sewer district and appoints a five-member board of trustees for five-year terms. The first board members are appointed for staggered terms, so one new board member will be appointed each year thereafter. The board must include one county commissioner, and a majority of the board members must reside in the common sewer district. Board members may be compensated as set by resolution of the county commission (204.300.1).
12. The board of trustees is the governing body of the common sewer district, and it carries out the goals of the district by establishing rules, hiring staff, consultants and others and managing the district's affairs (204.300.1). It is the sole discretion of the board to either spend district funds for the benefit of a subdistrict or not. However, the board has no power to levy or collect any taxes unless and until the voters of the common sewer district or a subdistrict have authorized it to incur debt at an election (204.253).

## **Formation of Common Sewer Subdistricts (204.250 and 204.565 to 204.573, RSMo)**

Common sewer subdistricts may be formed in an area within the common sewer district if the following apply:

- a. Sewage collection and treatment facilities are needed by a number of residences or commercial businesses within or adjacent to a common sewer district,
- b. the contemplated project is feasible and
- c. sewage collection and treatment services are not otherwise available (204.250.3).

This section of the guide will discuss three alternative methods to form subdistricts; the first two described here are for subdistricts located outside of cities, towns and villages. The third method described is for unincorporated subdistricts located within one of these municipalities.

Unincorporated subdistricts could include an entire village or town or just a part of such a municipality.

### **Alternative One (204.250, subsections 3, 4, 6 and 7)**

This alternative is most useful when the population of the project area is large enough to make voting the most convenient way to decide the issue.

#### **Steps**

1. The circuit court will, by order, place a question on a forthcoming ballot to be voted on by all real property owners of record registered to vote within the boundaries of the proposed subdistrict. The question will be substantially in the following form:

*Shall the \_\_\_\_\_ Circuit Court be authorized to create a sewer subdistrict proposed for the \_\_\_\_\_ (common sewer district name) and authorize the common sewer district to incur debt and issue general obligation bonds? These bonds would be used to pay for all or part of the costs to create and maintain the subdistrict.*

*The costs of this debt would be assessed by the \_\_\_\_\_ (common sewer district name) on the property within the subdistrict (204.250.4).*

2. The notice of election, which will contain the question above, must also contain the name and general nature of the proposed subdistrict, the boundaries of the proposed subdistrict to be assessed for sewer improvements, the estimated costs of the project, the proposed methods for assessing costs to the property owners and a statement that final costs for the project to be assessed against real property in the subdistrict and the amount of general obligation bonds issued shall not exceed the estimated costs of the project by more than twenty-five percent (204.250.4).
3. The voters approve the subdistrict by at least the margin required for the issuance of general obligation bonds of the city or county in which the subdistrict is located. This majority will be either two-thirds or four-sevenths (204.450.4).
4. After formation is approved by the voters, the circuit court will, by order, create the subdistrict. The order must contain all the statements made in the notice of election (paragraph 2 above). The order may require preliminary plans and specifications to be produced. The order may reduce the size of the subdistrict, but it may not increase it or include any area not described in the public notice for the election (204.250.6 and 7).
5. The district board of trustees organizes the subdistrict. It begins the process of designing, financing and building the project; hiring staff, consultants and others, as necessary and prudent; selling bonds or bond anticipation notes with maturities no greater than 20 years to finance construction activities, and providing for the assessment and collection of ad valorem taxes on the properties within the subdistrict to pay the financing costs of the project (204.252 and 204.256). Financing must be in accordance with the methods described in 249.130 RSMo which otherwise pertains to simple sewer districts.

### **Alternative Two (204.250, subsections 3, 5, 6 and 7)**

For smaller projects in close-knit communities, this method works very quickly and cheaply. This alternative is exactly like Alternative One except, rather than approving formation of the subdistrict by ballot, it is approved by petition.

### **Steps**

1. The property owners who own at least two-thirds of the real property by area in the proposed subdistrict sign a petition attesting their desire for a subdistrict to be formed (204.250.5).
2. The petition must contain all the information required above in Alternative One, paragraph two. In addition, it must state that names of signatories may not be withdrawn after seven days following the date the petition is filed with the circuit court (204.250.5).
3. The petition is filed with the circuit court (204.250.5).
4. If the court concurs with the petitioners, the court will, by order, create the subdistrict. The order must contain all the statements made in the petition that mirror those required for subdistricts authorized by election (paragraph two above). The order may state that preliminary plans and specifications be produced. The order may reduce the size of the subdistrict, but it may not increase it or include any area not described in the public notice for the election (204.250.6 and 7).

5. The district board of trustees organizes the subdistrict. It begins the process of designing, financing and building the project; hiring staff, consultants and others, as necessary and prudent; selling bonds or bond anticipation notes to finance construction activities, and providing for the assessment and collection of ad valorem taxes on the properties within the subdistrict to pay the financing costs of the project (204.252 and 204.256). Financing must be in accordance with the methods described in 249.130 RSMo which otherwise pertains to simple sewer districts.

### **Alternative Three (204.565 to 204.573)**

Unincorporated common sewer subdistricts may be formed within incorporated municipalities. For example, if there is a common sewer district in a county, and a city or part of a city wishes to join it so that the common sewer district would have responsibility for sewage collect and treatment within the city, the city may join the common sewer district and form a subdistrict using this method. This applies whether the city currently owns and operates a sewer system (204.569(1) and (2)) or it needs sewer facilities to be built for the first time. Unincorporated subdistricts serve the same purposes as incorporated subdistricts and are formed in essentially the same manner. However, to finance project costs for this type of subdistrict, a separate election of the subdistrict must be held (204.569(3)).

Sample documents for formation of an unincorporated subdistrict are not currently available for inclusion in the appendix; however, many of the documents will be similar to those for formation of the common sewer district.

### **Steps**

1. The governing body of the municipality, along with the board of trustees of the common sewer district, petitions the circuit court to have the boundaries of the common sewer district expanded to include the municipality and to establish this area as an unincorporated subdistrict. The petition also states the name, purposes and boundaries of the proposed subdistrict and includes a map of the subdistrict boundaries (204.565).
2. Within 30 days of receiving the petition, the circuit court will schedule a public hearing. The circuit clerk will publish notice of the hearing at least once each week for three consecutive weeks in one or more newspapers with general circulation in the area of the subdistrict and common sewer district. This notice will provide meeting information and state briefly the name, purposes and boundaries of the proposed subdistrict (204.567).
3. If, after the public hearing, the court finds formation of the subdistrict reasonable or necessary, it will decree the boundaries of the common sewer district be expanded, declare the area a subdistrict of the common sewer district, and approve the boundary map of the subdistrict (204.567).
4. The circuit clerk will then file the decree and map with the recorder of deeds in each county involved, and with each county commission involved (204.567). All other steps, and the powers of the common sewer district, are essentially the same as for Alternatives One and Two for incorporated subdistricts (204.569).

### **Other Alternatives (204.331 and 204.332)**

Sections 204.331 and 204.332 outline alternatives that combine parts of the common sewer district (204 RSMo) and simple sewer district (249 RSMo) structures, and organizational and financing procedures. These alternatives are not covered in this guide.



## Financing of Common Sewer Districts and Subdistricts (204.252 TO 204.460, RSMo)

There are several options to finance and repay the costs of projects. In the process of forming a subdistrict, general obligation bonds are authorized to finance the subdistricts project. In addition, or as an alternative to subdistrict financing, the common sewer district may be authorized to issue general obligation bonds. Either type of district may be authorized to issue revenue bonds. However, the board of trustees of the common sewer district has no authority to incur long-term debt until the board is authorized by election to issue bonds, or until a subdistrict is formed (204.252 and 204.253). All such bonds, however authorized, are obligations of the common sewer district. General obligation bonds may have maturities no longer than 20 years (204.252), and revenue bonds no longer than 35 years (204.380.3).

The following listing describes common sewer district and subdistrict financing methods:

1. General obligation bonds of the common sewer district can be authorized at a separate election by a vote of two-thirds of the entire common sewer district. In this case, assessments for repayment of these bonds would be made on all real property owners of the common district whether a project was built throughout the common district or in a smaller area of the common district. And in this case, all assessed property owners in the common district would pay for the project, whether they directly benefitted from the project or not (204.252). General obligation bonds may be issued in an amount up to 10 percent of the assessed valuation of the common sewer district (204.254.1), or up to the amount authorized in the election or petition to form the subdistrict, whichever is less.
2. General obligation bonds of the common sewer district can be authorized for subdistrict system costs by the election or petition to form an incorporated subdistrict. The cost of these bonds would be paid by only those real property owners of the subdistrict in which the project is built (204.252). Only those property owners who benefit from the project would pay for the project. General obligation bonds for subdistrict system costs may be issued in an amount up to 10 percent of the assessed valuation of the common sewer district (204.254.1), or up to the amount authorized in the election or petition to form the subdistrict, whichever is less. Generally, if general obligation bonds are to be used, subdistrict bond authorization and tax assessment are the preferred method of authorizing and financing sewer projects.
3. Revenue bonds of the common sewer district may be authorized at a separate election (204.360) by a vote of four-sevenths of the entire common sewer district (204.370). These bonds would be retired by the revenues of the entire common sewer district. The ballot question should be in the following general form:

*Shall revenue bonds in the amount of \_\_\_\_\_ dollars for the purpose of (acquiring, constructing, improving or extending the sewerage system) be issued by the common sewer district? (204.370.2)*

4. Revenue bonds of the common sewer district may be authorized for incorporated subdistrict system costs at a separate election within an incorporated subdistrict by a vote of four-sevenths of the incorporated subdistrict. These bonds would be retired by the revenues of the subdistrict only (204.256.2). The ballot question should be in the following general form:

*Shall revenue bonds in the amount of \_\_\_\_\_ dollars for the purpose of (acquiring, constructing, improving or extending the sewerage system) of the (sewer subdistrict) be issued by the \_\_\_\_\_ common sewer district? (204.370.2)*

5. Revenue bonds of the common sewer district may be authorized for unincorporated subdistrict system costs at a separate election within an unincorporated subdistrict (204.569(3), which refers back to (204.360)). These bonds would be retired by the revenues of the unincorporated subdistrict only (204.256.2 and 204.569(3)). Unincorporated subdistricts may authorize revenue bonds only, not general obligation bonds (204.569(3)). Although the subdistrict encompasses an area within a municipal entity like a city, the revenue bonds authorized are obligations of the common sewer district. The ballot question should be in the same general form as in paragraph 4 above.

### **Financing considerations**

1. General obligation bond debt service payments must be recovered from real property owners through collection of ad valorem taxes assessed to each parcel of real property. The ad valorem tax rate must be recalculated each year and be certified by the secretary of the board of trustees of the common sewer district to the board by May 15 of each year. The board must levy an appropriate tax rate to produce sufficient funds to pay the anticipated debt service for the coming year (204.255). These assessments need not be proportional to use of the sewer system. In the interest of fairness, they should be proportional to the cost to serve each user or user class. That simply means that if the sewer line to a particular property, such as a high volume industrial user, costs more to build than the average sewer line, or if a high peak demand sewage producer causes the district to construct otherwise unneeded treatment capacity to handle that peak demand, that property may be assessed at the higher rate necessary to pay its fair share of the costs of construction.
2. General obligation bonds may be issued with maturity dates up to 20 years (204.252) and revenue bonds with maturity dates up to 35 years (204.380.3).
3. The common sewer district will set and collect user fees for the users in each subdistrict. These fees will be based upon the unique costs of operation, maintenance and replacement of the sewer system of each subdistrict, the costs to retire revenue bond debt attributable to each subdistrict and the proportion of administration costs incurred by the common sewer district on behalf of each subdistrict. These user fees must be adequate to pay all such costs of each subdistrict (204.256 (3) and (4)). In short, the subdistrict users or user classes must pay their full and equitable share of the costs to serve them.

### **Simple Sewer Districts (249.430, RSMo)**

This structure is similar to the subdistricts within common sewer districts except there is no common sewer district to manage the construction, operation, maintenance and finances of multiple subdistricts as well as the overall sewer system.

There are two main organizational structures for simple sewer districts. The first is set out at 249.440 RSMo and describes a simple sewer district that is governed by the county commission. This structure is the only type of sewer district formed by action of the county commission. All others are formed by action of the circuit court. This structure is available to selected first class counties, and all second, third and fourth class counties (249.450). The second organizational structure is set out in 249.763 RSMo and describes a simple sewer district that is governed by a board of supervisors. According to the statutes, this structure is available only to second class counties. However, other class counties are known to have such sewer districts.

## **Formation of County Commission Simple Sewer Districts (249.430, RSMo)**

### **Steps**

1. Usually, property owners in an area having sewage problems collectively decide they need help from the county commission in solving their sewage problems. The property owners decide to pursue formation of a sewer district. At least ten percent of the voters of the proposed sewer district sign a petition requesting a sewer district be formed and present it to the county commission (249.450.2). A sample petition is included in the appendix as Appendix B - 1.
2. The county commission appoints a sewer engineer to advise it on formation of the district. The engineer will also oversee construction and assist in on-going maintenance and management of the district if the district is formed (249.460).
3. After consulting with the engineer, the commission adopts a resolution to establish the boundaries for the (proposed) sewer district (249.450.2). The resolution describes the size and boundaries of the proposed district, including only those properties which can conveniently be served by a sewer (249.450.2 and 249.470).
4. The county commission sets a date for a public hearing to obtain comments on the resolution that describes the proposed sewer district and project. The commission must notify the public of the hearing by placing a notice in a newspaper of general circulation in the area of the proposed district at least two weeks before the hearing date. It must also post copies of the resolution in at least five public places within the proposed sewer district (249.480.1).
5. The county commission holds the public hearing on the formation of the sewer district (249.480.1). The commission may consider or disregard comments, as it chooses (249.480.2).
6. After the hearing the commission may pass a resolution to proceed with construction absent filing of a protest as described in paragraph 7 below. A sample resolution is included in the appendix as Appendix B - 2. The sewer district so created is a political subdivision of the state, separate from the county, meaning it can sue, be sued, enter into contracts, incur general obligation bond debt and revenue bond debt (249.450.3). The district is governed by the members of the county commission; however, it is an entity separate from the county (249.485).
7. Construction of the system will be halted if a majority of the registered voters within the proposed district file a written protest with the county clerk on or before the hearing date. After a protest is filed, the county commission will make a determination of the sufficiency of the protest which will be conclusive unless challenged within ten days in the circuit court (249.480.2). Construction must proceed; however, if the Missouri Department of Health or the Missouri Department of Natural Resources files a written recommendation with the county clerk stating that the sewers are necessary for sanitary reasons (249.480.2).
8. The commission requests the county clerk to assign a deputy county clerk to keep the records pertaining to construction and maintenance of the sewer district (249.460).

9. As time passes and needs change, the commission may alter district boundaries, join or separate districts or make other district changes by commission resolution. Such decisions of the commission are conclusive (249.490 and 249.500).
10. The commission determines the suitable sewer system for the district, directs plans and specifications for the project to be drawn up, bids the project, and administers all other aspects of the project (249.510 and 249.515).
11. The commission establishes rules for use of the sewer system and rules governing other sewer systems located within the boundaries of the sewer district (249.515 and 249.560).
12. The commission adopts a user charge ordinance and sets user charge rates for users in the district to pay for operation, maintenance and replacement costs of the system (249.645). Alternatively, the commission may place special tax assessments on properties in the district to pay these expenses (249.640). If it uses tax assessments, the assessments may not exceed one-half of one percent of the assessed valuation of each property. Generally, sewer districts prefer user charge ordinances and rates to pay operational costs. User charges lend themselves better to a proportional to use system of charges, and they are usually collected monthly.
13. Under very special circumstances a city may join a simple sewer district if the city petitions the county commission for inclusion and the commission accepts the city into the district (249.665).

### **Financing of County Commission Simple Sewer Districts (Starting at 249.640, RSMo)**

Like other incorporated municipal entities, county commission simple sewer districts may finance construction costs by issuing general obligation bonds or revenue bonds after such bonds have been authorized by voters in the district. The sections of this statute concerning county commission simple sewer districts do not specifically cover bonding or debt issues. Counties wishing to form this type of sewer district should consult their attorneys and financial advisors for guidance in financing.

### **Formation of Board of Supervisors Simple Sewer Districts (249.763, RSMo)**

#### **Steps**

1. Usually, property owners in an area within a second class county who are having sewage problems collectively decide they need help from the circuit court in solving their sewage problems. The property owners decide to pursue formation of a sewer district. At least ten percent of the voters of the proposed sewer district sign a petition requesting a sewer district be formed, and present it to the circuit court. A sample petition is included in the appendix as Appendix B - 3. With the petition, the petitioners also file a bond of not more than \$500 (249.763). A sample bond is included in the appendix as Appendix B - 4.
2. The circuit clerk promptly places a notice in a newspaper of general circulation in the area of the proposed district to notify the public that the petition will be heard at the next regular term of the circuit court. This notice must run once a week for four consecutive weeks, the last being at least 15 days before the petition is to be heard (249.765.1). The notice should be in a form similar to the following:

## NOTICE OF APPLICATION TO FORM SEWER DISTRICT

*Notice is hereby given to all persons interested in the following described real property in County of Missouri: (describe here the property set out in the petition). A petition has been filed asking that the foregoing real property be formed into a sewer district under the provisions of sections 249.760 to 249.810, RSMo. This real property will be affected by the formation of the sewer district. It will be rendered liable to taxation to pay the expenses of organizing the district, and to construct and maintain the sewage treatment facilities and the sewer system in the district. You are hereby notified to appear at the next term of this court to be held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, in County, and show cause, if any, why the sewer district should not be organized as a public corporation of the state of Missouri.*

Clerk of the Circuit Court of \_\_\_\_\_ County  
(249.765.2)

A sample affidavit of assessed valuation is included in the appendix as Appendix B - 5. A sample public notice is included in the appendix as Appendix B - 6. A sample affidavit of the clerk for mailing notices to owners of record, which is not required but constitutes a diligent effort to notify the public, is included in the appendix as Appendix B - 7.

3. Voters who have not signed the petition to form the district may object to formation of the sewer district on or before the first day of the circuit court term when objections are to be heard (249.767.1).
4. The circuit court holds the hearing and receives objections if there are any. If the court finds that one or more properties should be excluded from the sewer district, it may amend the petition accordingly. If the court overrules all other objections received, the court will, by order, decree the sewer district a public corporation of the state (249.767.1). A sample decree of incorporation is included in the appendix as Appendix B - 8. A sample of the clerk's certification of the decree of incorporation, which is not expressly required by this statute, is included in the appendix as Appendix B - 9.
5. Within 60 days of the incorporation decree, the circuit clerk will file a certified copy of the findings, the decree and a plat of the district with the secretary of state (249.767.3), and also with the county recorder of deeds (249.767.4). A sample affidavit of the clerk of filing the decree of incorporation, which is not expressly required by this statute, is included in the appendix as Appendix B - 10. The sewer district is a political subdivision of the state, meaning it can sue, be sued, enter into contracts, incur general obligation bond debt and revenue bond debt (249.777). The district is governed by a board of supervisors (249.770 and 249.777.2).
6. Within one year of incorporation, there will be five members elected to the first board of supervisors. The first board members will be elected for staggered terms so one new board member will be elected each year thereafter (249.770). A sample notice of board election is included in the appendix as Appendix B - 11. A sample of the clerk's affidavit of mailing of notices, which is not expressly required by this statute, is included in the appendix as Appendix B - 12. A sample affidavit of election results is included in the appendix as Appendix B - 13.
7. As time passes and needs change, the board of supervisors may extend the boundaries of the sewer district. To do so, at least five real property owners within the area to be annexed

along with the board of supervisors must sign and submit a petition making this request to the circuit court having jurisdiction. All other procedures are essentially the same as for the formation of a new sewer district (249.807). Individual properties may also be added in a similar fashion (249.807.3).

8. The board determines the suitable sewer system for the district, directs plans and specifications for the project to be drawn up, bids the project and administers all other aspects of the project (249.777).
9. The board establishes rules for use of the sewer system and rules governing other sewer systems located within the boundaries of the sewer district (249.777.1).
10. The board adopts a user charge ordinance and sets user charge rates for users in the district to pay for operation, maintenance and replacement costs of the system (249.785). Alternatively, the board may place special tax assessments on properties in the district to pay these expenses (249.777.17). Generally, sewer districts prefer user charge ordinances and rates to pay operational costs. User charges lend themselves better than property taxes to a pricing structure that is proportional to use of the sewer service, and they are usually collected monthly.

## **Financing of Board of Supervisors Simple Sewer Districts (Starting at 249.785, RSMo)**

Board of supervisors simple sewer districts may finance construction costs in several ways. They may issue general obligation bonds, revenue bonds or they may assess special taxes or fees. General obligation bonds must be authorized by voters in the district before the board can issue such debt (249.790). After giving proper public notice and not receiving objections, revenue bonds may be issued by the board without a vote. However, if sufficient objections are raised, the board must put the issue to a vote of the district (249.800). All bonds are obligations of the sewer district and subject to the limits set by the Missouri Constitution.

### **General obligation bond financing steps**

1. The board of supervisors adopts a resolution that states the reasons for borrowing money, the amount needed and arrangements for the loan or the amount and type of bonds to be issued (249.790.1). The amount borrowed is subject to state constitutional limitation (Article VI, Section 26(a), Missouri Constitution). A sample resolution was not available for inclusion in the appendix.
2. The board submits the proposal to an election. General obligation bonds must be authorized by four-sevenths of the voters in a municipal general election or state primary or general election, or by two-thirds at all other elections (249.790.2 RSMo and Article VI, Section 26(a), Missouri Constitution).
3. General obligation bonds are approved by the voters. The board provides for the collection of an annual tax to retire the debt to be incurred (249.790.3). At the appropriate time following this authorization, the board will issue bonds to pay the expenses of the project.

### **Revenue bond financing steps**

1. The board publishes a notice in a newspaper circulated in the county to inform the district of its intent to issue revenue bonds. The notice must be published twice and state the maximum amount of bonds to be issued, the purpose of the bonds and inform voters of their right to file a written protest (249.800). A sample notice was not available for inclusion in the appendix.

2. If less than 25 percent of the voters voting at the last election of supervisors sign and submit to the district secretary a protest to the issuance of bonds, or if they do so later than 15 days after the first public notice was published, the board may proceed with bond issuance (249.800). In the interest of fully informing and involving the district's voters, the board may want to skip this step and proceed to step three as if at least 25 percent of the voters had signed and submitted a protest.
3. If at least 25 percent of the district voters signed and submitted the required protest, the board will put the question to a public vote in the district (249.800).
4. The bond issue voted on by voters in the district passes by a majority (249.800). The board then fixes and maintains adequate rates and user charges to retire the debt to be incurred (249.797.3). At the appropriate time following this authorization, the board will issue bonds to pay the expenses of the project.

### **Special assessments, taxes, fees and charges**

As an alternative to bond financing, following approval of a majority of the district voters, the board may place a special assessment, tax, fee or charge on properties in the district to pay sewer project expenses (249.777.17). However, this special assessment probably would be sufficient to pay for only part of the costs of most sewer projects. This assessment may be most useful to pay for engineering services that, among other things, would enable the district to estimate the amount of bond authorization to seek to finance the sewer construction project.

## **Sewers Within Water Supply Districts (247.035, RSMo)**

Sewer systems can be financed, built and operated by public water supply districts specifically authorized to do so (247.035). If sewer services are now needed where a public water supply district already exists, using the water supply district for this service may be the quickest, most economical way to get sewer services. Otherwise, sewer and public water supply services may just as easily be obtained by forming a common sewer district with subdistricts, or by forming a simple sewer district.

### **Steps**

1. Usually, property owners within an existing public water supply district having sewage problems collectively decide they need a central sewer system to solve their sewage problems. The property owners decide to ask the public water supply district which provides their water to provide sewer service as well. The sewer service area may include all of the water district, or only a portion of it, as desired by the property owners. To enable the water district to provide sewer services, the board of directors of the water district petitions the county circuit court for an amended decree of incorporation. The area to receive sewer services must be defined in the petition to the circuit court and subsequently, in the amended decree of incorporation. A sample resolution to petition the court is included in the appendix as Appendix C - 1. A sample certificate of the clerk concerning the petition, which is not expressly required by this statute, is included in the appendix as Appendix C - 2. The amended decree will allow the district to construct and operate sewers to serve at least ten properties in the defined area. These properties may not already be receiving sewer services from another political subdivision, be located within the certificated area of a sewer corporation as defined in 386 RSMo, or be located within the boundaries of a common sewer district as defined in 204 RSMo (247.035.1).

2. The circuit court holds a hearing, and the request for the amended decree proceeds as for the formation of a new water district, except no new vote of the residents is required when sewer service is added to the functions of the water supply district (247.035.1).
3. Following the hearing, the court issues the amended decree of incorporation (247.035.2). A sample decree is included in the appendix as Appendix C - 3.
4. The board administers sewer service concerns just as it is authorized by law to administer drinking water concerns, issues debt, sets user charges and manages the overall water and wastewater system in a coordinated fashion (247.035.3).

## **Neighborhood Improvement Districts (67.453, RSMo)**

Neighborhood Improvement Districts (NIDs) are a relatively new, special financing mechanism that can be used to finance a wide range of public improvements, including sewer and water systems. Neighborhood improvement district financing was legally challenged and subsequently ruled upon by the Missouri Supreme Court in the spring of 1996. That ruling modified the financing capabilities of neighborhood improvement districts. The ruling restricted the ability of the sponsoring entity, the county or city within which the district is formed, to paying debt service on the bonds issued out of current revenue sources only. The county or city may not issue new bonds or raise taxes to pay the debt service, should the neighborhood improvement district for some reason fail to make those payments. This restriction for debt service may adversely affect the marketability of NID bonds.

NIDs are simply an area of land or properties located within a city or a county. When a NID is formed, general obligation bonds of the city or county are authorized to finance the project for the district. The NID itself does not govern the construction of the improvement or perform any on-going management of improvements constructed. The city or county performs these tasks. The NID is simply a financing mechanism.

This section contains references to sample documents in the appendix that pertain to a NID formed in Boone County to finance road improvements. This district was being formed by petition. Some of the sample documents are not required by the NID statute; however, they are included in the appendix because they may be helpful to you. Some of the instructional materials for Boone County petitioners was edited slightly to make those instructions more applicable outside of Boone County as well. Sample documents for the formation of a NID by the election method were not available for inclusion in this guide, but the processes and documents for the two formation methods are nearly identical.

## **Formation and Financing of Neighborhood Improvement Districts (67.453, RSMo)**

### **Steps**

1. Usually, property owners within a county or city having sewage problems collectively decide they need a central sewer system to solve their sewage problems. The property owners decide to form a NID of the county or city by either holding an election or submitting a petition. The election method works best for heavily populated districts. The petition works well for smaller, close-knit communities.



A. Election Alternative (67.457.2)

1. The property owners request the city council or board, or the county commission to pass a resolution to place a question to form the district on an upcoming election. Only voters within the proposed district may vote on the question.
2. The council, board or commission passes a resolution to place a question on an election to form the district. The resolution states the name of the proposed district and sets out the boundaries. It describes the proposed improvement and its estimated cost and describes the methods of assessing financing and other costs to the properties within the district.
3. The council, board or commission publishes a notice of election that contains the ballot question and statements in the resolution and a statement that the final cost of the improvement will not exceed the estimated cost by more than 25 percent. The question should be in a form similar to the following:

*Shall \_\_\_\_\_ (name of county or city) be authorized to create a neighborhood improvement district proposed for the (project name for the proposed improvement) and incur indebtedness and issue general obligation bonds to pay for all or part of the cost of public improvements within the district? The cost of all indebtedness incurred will be assessed by the governing body of the \_\_\_\_\_ (county or city) on the property benefited by the improvements for a period of \_\_\_\_\_ years. If included in the resolution, an additional assessment solely for the maintenance of the improvement will be assessed in each year thereafter.*

4. The voters approve the district by at least the margin required for the issuance of general obligation bonds of the county or city within which the district is located.

B. Petition Alternative (67.457.3)

1. The property owners representing at least two-thirds of the property in the proposed district by area sign a petition to form the district. A sample petition is included in the appendix as Appendices D - 1, D - 2 and D - 3. The petition states the name and sets out the boundaries of the proposed district. It describes the proposed improvement and the estimated cost and describes the methods of assessing financing and other costs to the properties within the district. The petition states that the final cost of the improvement will not exceed the estimated cost by more than 25 percent. It also states that signers may not withdraw their names from the petition after seven days after it has been filed with the county or city clerk.
2. The property owners file the petition with the county or city clerk, as appropriate. A sample document that acknowledges filing is included in the appendix as Appendix D - 4. Although not expressly stated by the statute, the city or county clerk also certifies the area included in the proposed district. A sample certification is included in the appendix as Appendix D - 5.
2. The council, board or commission passes a resolution to establish the district and order preliminary plans and specifications made. This resolution contains all the statements made in the petition or in the council, board or commission's earlier resolution proposing to form the district (67.457.4).

3. The council, board or commission may reduce the size of the district if it so chooses, but it may not increase it (67.457.5).
4. The council, board or commission assesses costs of the improvements to the properties in the district according to the benefits afforded each property (67.459). Properties will be reassessed as costs change, and the project proceeds (67.461.1).
5. The council, board or commission files the plans and specifications for the improvement as well as the assessment roll with the county or city clerk for public viewing (67.461.2).
6. The clerk publishes a notice announcing a public hearing concerning the plans and specifications and the assessment roll. The notice is published in a paper of general circulation at least one time between 10 and 20 days before the hearing date. The notice states pertinent information about the meeting and the improvements being considered, including preliminary or final costs, district boundaries and a statement that written and oral objections to the improvements will be considered at the hearing. The clerk also mails this notice to all property owners within the district (67.461.2). A sample notice is included in the appendix as Appendix D - 6.
7. The council, board or commission hears objections at the public hearing. It considers objections, if there are any, and then passes a resolution ordering the improvements to be made and the financing initiated (67.463.1). A sample resolution was not available for inclusion in the appendix.
8. Although not required by the statute, a sample order for notice of formation of NIDs is included in the appendix as Appendix D - 7, and a sample NID policy summary is included in the appendix as Appendix D - 8.

## **For More Information**

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P.O. Box 176, Jefferson City, MO 65102-0176  
1-800-361-4827 or (573) 526-6627 office  
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([www.dnr.state.mo.us/oac/env\\_assistance.htm](http://www.dnr.state.mo.us/oac/env_assistance.htm)) Program Home Page